

and product made, etc., but are capable of separate manufacture, use, or sale as claimed, and are patentable over each other. MPEP 802.01.

Independent claim 1 recites in pertinent part, "receiving content descriptors, which describe content, from a server....sending feedback to the server ..." Independent claim 6 recites in pertinent part, "receiving content descriptors, which describe content, from a server....sending a next feedback to the server ..." Both of these methods perform similar operations, with the difference being what causes the feedback data to be sent to the server. Similar elements are found in each of independent method claims 10, 16, and 19. The difference lies in operations defined in between receiving the content descriptors and send feedback to the server. The other sets of claims are analogous to the method claims sets of independent claim 1, 6, 10, 16, and 19. For example, independent claim 33 is a machine-readable medium claim for performing the method of claim 1, while independent claim 45 covers an apparatus for performing the method of claim 1.

In the office action, the Examiner asserts the claims are directed to patentably distinct species: Figure 5A, Figure 5B, Figure 3, Figure 5D and Figure 5E. Claims to be restricted to different species must be mutually exclusive (MPEP § 806.04(f)). An examination of Figures 5A, 5B, 5D, and 5E reveals only a portion of the operations recited in each of the independent claims. Notably, the operation of "receiving content descriptors, which describe content, from a server" is not shown in any of these drawings. This is because Figures 5A, 5B, 5D, and 5E each show sub-combinations relative to the generic process of Figure 3, which includes the operation of "receiving content descriptors, which describe content, from a server" (i.e., block 305).

In addition, the Applicant respectfully asserts that examination of the entire application can be made without serious burden. "For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02." (MPEP § 803) Clearly, all of the present independent claims are directed to subject matter having the same classification. Thus, the examiner would not be required to perform searches on

multiple classifications, but rather a single classification. This does not pose a serious burden. Therefore, restriction of the claims is improper.

### CONCLUSION

In view of the foregoing remarks, Applicants believe the present election/restriction requirement has been overcome. Accordingly, favorable consideration and withdraw of the election/restriction requirement are earnestly solicited. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. §1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,  
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Date: March 8, 2004

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### FIRST CLASS CERTIFICATE OF MAILING

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